

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

PAUL PEREA,

Petitioner,

v.

No. 22-cv-312 JCH-JFR

TIM HATCH,

Respondent.

ORDER OF DISMISSAL

This matter is before the Court following Petitioner Paul Perea's failure to prosecute his 28 U.S.C. § 2254 Habeas Petition (Doc. 1) (Petitioner). By an Order entered May 19, 2022, the Court directed Petitioner to prepay the \$5 habeas filing fee or submit an *in forma pauperis* motion within thirty days. (Doc. 4). The Order warned that the failure to timely comply will result in dismissal of this case without further notice. Petitioner did not address the filing fee by the June 18, 2022 deadline, show cause for such failure, or otherwise respond to the Order. Accordingly, the Court will dismiss the Petition under Fed. R. Civ. P. 41(b) for "failure to prosecute [and] comply with the ... court's orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003). The Court will also deny a certificate of appealability (COA) under Habeas Rule 11, as the failure to prosecute this case is not reasonably debatable. *See DeAtley v. Williams*, 782 Fed. App'x 736, 737 (10th Cir. 2019) (declining to issue a COA after district court dismissed habeas petition under Rule 41).

IT IS ORDERED that Petitioner's 28 U.S.C. § 2254 Habeas Petition (**Doc. 1**) is **DISMISSED without prejudice**; and the Court will enter a separate judgment closing this case.



SENIOR UNITED STATES DISTRICT JUDGE